UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,814	10/22/2001	Takeshi Miyao	1743/189	2996

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EXAMINER
CHAVIS, JOHN Q

ART UNIT	PAPER NUMBER
2124	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/914,814	MIYAO ET AL.
	Examiner	Art Unit	
	John Chavis	2124	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>08 November 2004</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All   b)☐ Some *   c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 1-15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by

Loucks (5,764,984).

Claims	Loucks
1. An operating system management method for managing a plurality of operating systems, the plurality of operating systems being replaced alternately and operated in a time-sharing manner, with all of said plurality of operating systems being operated as software of a common computing unit, comprising:	See the title and abstract. Note also col. 5 lines 17-32, which indicates resource contention problems will exist and therefore timesharing inherently occurs to ensure conflicts are resolved (abstract) and ensure resources are effectively shared (col. 2 lines 39-41). Also, see col. 3 lines 56-64.
a recording unit for recording operation information transferred from an operation information memory for storing an operation state of each of said operation information, obtained through a synchronization operation operating the plurality of operating systems at the same time during a time-shared switching operation thereof, and being assumed as a reference to other operation information items corresponding to each other and regarded to have been generated approximately at the same time;	See col. 2 lines 28-51. In reference to the "same time" feature, again see the portions cited above and note the wait function for the subdominant personality in fig. 3, which provides for synchronization and switching between information items.

a searching unit for searching operation information assumed as a reference to said other operating information items from said operation information items recorded in said operation information memories of said operating systems;	See col. 2 lines 66-67 and col. 5 lines 37-45. See also col. 3 lines 1-3, which inherently indicates that time is shared. Note again the portions cited above, which clearly indicates that information items must be recorded when a resource is not available (for example, for a subdominant system) and utilized to enable synchronizations after a wait time expires to ensure that both systems have access to available resources.
wherein said management system finds a sequence of other operation information items recorded in said operation information memories of said operating systems according to the correspondence to said searched operation information.	See col. 1 lines 56-67, col. 4 lines 7-27, fig. 3. and col. 3 line 65- col. 4 line 6.

As per claims 2-3, see the rejection of claim 1 above.

The features of claim 4 are inherent in claim 1 above to enable concurrent

operations between the two operating systems.

In reference to claim 5, see the kernel features taught by Loucks, col. 5 lines 18-

32.

As per claim 6, see the rejection of claim 1 in view of claim 4, as this is

the essence of the dominant operating system (with built in control program) to control

procedures and resolve issues between systems. Note also that time management is

inherently performed via a counter function and that either system can be the dominant

system and the features are provided for handling errors (logging),

col. 4 line 58-col. 5 line 16.

The features of claims 7-8 are inherent in the task manager feature of Windows systems, see col. 5 lines 46-56.

In reference to claim 9, see the rejection of claims 4 and 6 above.

Claim 10 is taught via the feature of having one operating system dominant (i.e. control program), col. 2 lines 52-62, and having the dominant system selectable, col. 2 lines 28-35. Also, see col. 3 lines 56-64.

As per claims 11-12 and 14, these features are considered inherent to ensure coordination of resources via the dominant system, col. 4 line 58-col. 5 line 16.

The features of claim 13 are considered inherent to enable one of the systems to be dominant.

In reference to claim 15, time management is inherently based on counters; for example, see the wait function in fig. 3.

Claim 17 is taught by Loucks dominant personality system controlling access to resources and providing synchronization between systems, col. 2 lines 44-65.

Claim Rejections - 35 USC § 103

5.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6.   Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Loucks as applied to claim 1 above, and further in view of the application's design choice of location of resources or functionalities. The applicant merely shifted resources from one location to another, which is not taught or suggested by Loucks. However, the overall functionality remains the same and therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to separate functionality in Loucks system to simplify the maintenance of each component; since, the overall functionality of the program remains the same.

Conclusion

7.   Applicant's arguments with respect to claims 1-17 have been considered but are not persuasive.

Remarks

The applicant refers to a recording unit for finding a sequence of the other operation system, which is not clear in any of the claims. The applicant also refers to the function of the searching unit and the function of finding and recording the sequence of other operation system states; however, this is considered the essence of coordinating access to shared resources (time-sharing) as if each system is in full control of the resource, see col. 3 lines 60-62, col. 4 line 58-col. 5 line 2 and col. 4 lines 25-28. See, for example, the definition of time-sharing attached. Furthermore, Loucks system checks statuses (which means that states are found and recorded), see col. 4 line 58-col. 5 line 2).

The time-sharing definition provides for interleaving portions of processing time; which, inherently provides for finding and recording statuses so the system know where to return to an interrupted process, see also the definitions of concurrent and concurrent execution provided via Microsoft's Computer Dictionary, third ed. (1997)

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Chavis whose telephone number is (703) 571-3720. The examiner can normally be reached on M-Tue & Th-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (703) 571-3719. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John Chavis
Primary Examiner AU-2124